

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN BERNHOLT, and BERNHOLT
DESIGN SOLUTIONS, INC.,

Plaintiffs,

vs.

JEFF ALLEN, ABP ENGINEERING,
LLC, MMIS HOLDINGS, LLC, and
MIDWEST MECHANICAL INDUSTRIAL
SERVICES, LLC,

Defendants.

8:19CV419

**AMENDED PROGRESSION
ORDER**

After conferring with counsel for the parties, the parties' joint motion to extend progression (Filing No. 73) is granted and IT IS ORDERED that the final progression order is amended as follows:

- 1) The jury trial of this case is set to commence before Brian C. Buescher, United States District Judge, in Courtroom 5, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at 9:00 a.m. on **January 11, 2022**, or as soon thereafter as the case may be called, for a duration of five (5) trial days. This case is subject to the prior trial of criminal cases and such other civil cases as may be scheduled for trial before this one. Jury selection will be held at the commencement of trial.
- 2) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **December 21, 2021** at **10:00 a.m.**, and will be conducted by internet/telephonic conferencing. Counsel shall use the conferencing instructions assigned to this case to participate in the conference. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to zwart@ned.uscourts.gov, in Word format, by 5:00 p.m. on December 14, 2021.
- 3) Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by July 19, 2021.

Note: A motion to compel, to quash, or for a disputed protective order shall

not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 4) The deadline for complete expert disclosures¹ for any rebuttal experts expected to testify for Plaintiffs at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)) is July 6, 2021.
- 5) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is July 20, 2021.
- 6) The deadline for filing motions to dismiss and motions for summary judgment is September 21, 2021.
- 7) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is September 21, 2021.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 22nd day of June, 2021.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.